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C O N F I D E N T I A L SECTION 01 OF 03 TOKYO 001184

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STATE PASS USTR FOR STRATFORD AND CUTLER

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TAGS: [ECON](#) [ETRD](#) [WTRO](#) [PGOV](#) [CH](#) [JA](#)

SUBJECT: METI REMAINS CAUTIOUS TOWARD U.S. APPROACH ON CHINA

Classified By: Ambassador J. Thomas Schieffer for reasons 1.4 (b/d).

Summary and Comment

11. (C) Assistant U.S. Trade Representative for China Tim Stratford, in meetings with METI officials on March 9, stressed that the U.S. "two track" approach of intensified dialogue combined with a willingness to take China to dispute settlement in the WTO had shown substantial progress. The Japanese were uniformly cautious about pursuing litigation in the WTO from worries over possible Chinese retaliation against Japanese firms but seemed willing to explore the possibility for greater cooperation with the United States. As a first step, Stratford and METI Trade Policy Director General Masakazu Toyoda agreed that it would be beneficial for both the United States and Japan to exchange information on what each saw as China's most significant WTO violations. We believe this may be useful in helping Japan overcome its self-imposed taboo on taking China to the WTO. (Stratford met earlier with MOFA Economic Affairs Director General Yoichi Otabe, which is reported septel.) End Summary and comment.

Japan Should Adopt Two-Track Approach with China

13. (C) AUSTR Stratford urged officials in two meetings on March 9 at Japan's Ministry of Economy, Trade, and Industry (METI) -- hosted separately by DG Toyoda and DG for Multilateral Trade Tsunehiro Ogawa -- to consider adopting a two-track approach to dealing with China similar to the one the United States has adopted. Dialogue is critical, he said, but so should be a willingness to use the WTO dispute settlement mechanism when problems prove intractable. He added that dispute settlement had proven an effective way to "compartmentalize" differences and ensure that they not become politicized. In both his METI meetings, Stratford said that it was better to start engaging the Chinese now in the WTO rather than wait five years when China would be stronger and more aggressive on trade issues.

14. (C) DG Toyoda said he appreciated the U.S. approach, while DG Ogawa was largely in listening mode. Toyoda quipped that in the past five years Japan had had a "no-track approach," but now Japan was reaching the stage where a two-track approach may be better. The Trade Policy DG agreed

with Stratford's assertion that taking disputes to the WTO may be the best way to avoid their politicization. Toyoda described Japan's frustration in trying to engage Beijing on disputes and getting little in return. However, he did note a tariff issue that was resolved after Japan indicated it would take the case to the WTO. He also said that the Chinese were providing more information in the wake of warming relations after PM Abe's visit to China. Stratford noted that the U.S. willingness to use the WTO for dispute settlement had made the dialogue half of the economic relationship more efficient.

Subsidies Case - Japan In a Box

15. (C) AUSTR Stratford underscored the importance the United States attaches to the case it took to the WTO in February against China on subsidies. Japan should be every bit as concerned as the United States. The Chinese government needs to focus on domestic demand, and the subsidies in dispute are distorting Chinese economic development. Toyoda, seemingly uncomfortable with his talking points, said that Japan could not join the United States in the case because it had not been able to get the necessary information from the Chinese. Stratford expressed puzzlement at the explanation, noting that information about the subsidies is widely available; "prohibited subsidies are prohibited subsidies," and the case is very clear. Even some Chinese experts, Stratford added, share this view. "This was a lost opportunity for Japan."

16. (C) When Toyoda turned to a staffer for further explanation of the GOJ position, the staffer noted that the subsidies regulations were in Chinese and their experts were unclear from the language as to whether the subsidies are

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provided automatically or at the discretion of the Chinese government. Stratford quipped that he hoped when Japan considers bringing cases against the United States in Geneva that it shows the same exacting legal standards as it has shown with Beijing. He added that the Chinese reaction to the case so far has been fairly muted. In both his meetings at METI, officials told Stratford that concern about retaliation, particularly among some in Japanese industry, has contributed to Japan's reluctance to go the WTO route.

Auto Parts - Appeasement Policy

17. (C) The U.S. auto parts case against China came up in both of Stratford's METI Meetings. In the meeting led by Ogawa, who is responsible for multilateral trade issues, Deputy Division Director Kenichiro Urakami stated that the GOJ must consider the practical impact of bringing a case to the World Trade Organization. Although Japan has only signed on as a third party in the case, Japanese auto companies operating in China have reported subtle acts of retaliation such as delayed issuance of permits. Japanese auto companies, he said frankly, would prefer an "appeasement" policy.

18. (C) Urakami asked if the U.S. auto industry had complained about the WTO case, an issue raised also in the Toyoda meeting. Stratford said that they had not and that the United States was disappointed that Japan only signed on as a third party, since the intent behind the National Development and Reform Commission (NDRC) rules was specifically to target Japanese companies. The United States brought this case to address a systemic problem in China, which should be of bigger concern to Japan than the United States, he said. Toyoda noted that METI had sought more information from the Chinese on the case but had made no progress. Toyoda's sense was that the Chinese were "engaging in delaying tactics."

19. (C) Urakami said the GOJ is concerned about the NDRC's new

auto industry policy that limits investment and encourages further development of Chinese-branded automobiles. Other measures appear to be subtle subsidies for export vehicles. China needs to be more transparent not only on auto issues but also on issues such as transfer pricing taxes. Stratford stated that the United States is also watching this situation closely. The Chinese government is testing the limits of China's WTO counterparts and watching which governments will respond, Stratford said. This is all the more reason that the United States and Japan should work closely together to address China-related issues in the WTO.

IPR Case

¶10. (C) METI Division Director for WTO Compliance and Dispute Settlement, Naoshi Hirose, asked Stratford about the status of bringing IPR and market access cases to the WTO for resolution and how the Strategic Economic Dialogue with China may affect this issue. Stratford explained that the United States is working hard to make authorities in Beijing understand that bringing a case to the WTO is not a hostile action but rather a constructive one. It allows the parties to isolate problems and not have them spill over to other parts of the relationship.

¶11. (C) Hirose said that, while he appreciated the rationale behind the two-track approach, he wondered if China may suspend the dialogue part and simply wait for the United States to go to Geneva. He also asked how, if the United States brings a case to the WTO, it would be handled in the SED? Stratford replied that the SED discusses IPR in the context of innovation. It is possible the Chinese would decide not to participate in future dialogues if a case is brought to Geneva, but this would be counterproductive because it would stop efforts in many other areas. He dismissed the general concerns about retaliation raised in both METI meetings as not having been justified by the experience so far.

¶12. (C) The Chinese have no systemic way to deal with IPR

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infringement, Stratford underscored with Hirose. The United States continually urges the GOC to take concrete steps to ameliorate the situation but the GOC has refused to do so. The GOC has even refused to cooperate with the IFPI optical disk forensic center, saying it has "no authority" to compel optical disk manufacturers to provide disks to the organization that could later be used to determine which factory was producing pirated goods. Because of the lack of progress on IPR issues, Stratford predicted that the United States would likely bring a case to the WTO "soon," and urged the GOJ to rethink its approach to this case. He told Toyoda that IPR enforcement to date had been scant, while penalties on those rare cases where convictions are obtained have not measured up to the crimes committed.

Nonferrous Metals

¶13. (C) METI Deputy Director of the Nonferrous Metals Division, Kazunori Fukuda, said that the GOJ is increasingly concerned about export controls China is applying to non-ferrous metals. China controls 93 percent of the world's rare earths used in such things as mobile phones, PCs, and defense items. While world demand for rare earths is expected to increase at ten percent a year, China is decreasing its exports. When Japan has expressed its concerns, China has declined to discuss the matter. Fukuda said China's policies were not WTO/GATT consistent and Japan would like to work with the United States to resolve this issue. Stratford replied that the United States shares this concern and would welcome any information, data or legal analysis Japan has. On a broader level, the United States and Japan need to identify more common interests and areas of

cooperation. DG Toyoda agreed, and said that perhaps it would soon be Japan's turn to play a leading role in bringing a WTO case against China.

Currency Manipulation

¶14. (C) Toward the end of their meeting, Toyoda asked Stratford what he thought of the currency issue in China: How did the United States assess the strength of the renminbi from a WTO legal standpoint? Stratford answered cautiously, noting that USTR did not have the lead on currency issues and was not actively pursuing this issue from a WTO perspective. He commended a very interesting speech that touched on the subject that Federal Reserve Board Chairman Bernanke recently delivered. Toyoda said he thought Beijing's policies to keep the renminbi undervalued were "distorting China's economic structure." Measures to address the trade imbalance, while China's currency remains undervalued, "don't help," Toyoda asserted.

Comment

¶15. (C) It's not likely that we will see any discernible shift in Japan's approach toward China any time soon. AUSTR Stratford's meetings showed how cautious the Japanese remain about using WTO dispute settlement. The Trade Ministry bureaucrats continue to keep their fingers to the wind to measure where Japan's business community is. The Foreign Ministry counterparts of Stratford's METI interlocutors displayed similar inclinations to let the Japanese business community take the lead in shaping GOJ policy. DG Toyoda, for his part, was the most forward leaning of Stratford's interlocutors, conceding that Japan's trade diplomacy with China had not been very effective. His apparent readiness to exchange information on what the U.S. and Japan consider China's most significant WTO violations could be a useful step in building Japan's confidence to take China to the WTO. However, until such time as the Japanese identify an issue of such vital interest to their industries that they feel compelled to take the case to the WTO -- and feel confident both of the prospects for victory and of U.S. support -- they will likely continue their current policy: talking to China while basically free-riding on Washington's WTO coattails. SCHIEFFER